

Before the  
COPYRIGHT ROYALTY JUDGES  
Washington, D.C.

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Copyright Royalty Board

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In the Matter of )

)  
Distribution of the )  
2010 and 2011 Cable Royalty Funds )  
\_\_\_\_\_ )

Docket Nos. 2012-4 CRB CD 2010  
2012-9 CRB CD 2011✓

**MOTION TO INITIATE A PHASE I PROCEEDING FOR THE  
DISTRIBUTION OF THE 2010 AND 2011 CABLE ROYALTY FUNDS**

The undersigned representatives of all the Phase I claimant categories to which Section 111 cable royalties have been allocated in prior cable distribution proceedings ("Phase I Parties") hereby petition the Copyright Royalty Judges ("Judges") to declare a controversy and initiate a Phase I proceeding to distribute the cable royalty funds for the years 2010 and 2011 ("2010-11 Cable Phase I Proceeding"). To this end, the Phase I Parties request that the Judges publish a notice of commencement of proceedings in the Federal Register soliciting petitions to participate in the 2010-11 Cable Phase I Proceeding, as required by the Copyright Act and Copyright Royalty Board ("CRB") regulations. *See* 17 U.S.C. § 804(b)(8); 37 C.F.R. § 351.1(a).

**I. The Parties Have Settled All Phase I Controversies for the 2004 Through 2009 Cable Royalty Funds Distributions.**

On November 4, 2011, representatives of the Phase I Parties notified the Judges that they had reached a settlement of all outstanding Phase I controversies in connection with the 2004, 2005, 2006, 2007, 2008, and 2009 cable royalty funds ("2004-2009 Cable Royalties"). *See Phase I Parties' Notice Of Phase I Settlement And Motion For Further Distribution*, Docket Nos. 2007-3 CRB CD 2004-2005, 2008-4 CRB CD 2006, 2009-6 CRB CD 2007, 2010-6 CRB CD 2008, and 2011-7 CRB CD 2009 (Nov. 4, 2011); *see also Distribution Order*, Docket Nos. 2007-3 CRB CD 2004-2005, et al, at 1 (Feb. 17, 2012) (acknowledging the Phase I Parties'

settlement). On July 27, 2012, the Phase I Parties filed a Motion to Initiate a Phase II Proceeding to resolve any remaining controversies to the 2004-2009 Cable Royalties. *Joint Motion to Initiate Phase II Proceedings for the Distribution of [2004-2009] Cable Royalties*, Docket No. \_\_\_\_\_ (filed July 27, 2012). With the Phase I Controversies for the 2004-2009 Cable Royalties resolved, and given the pending request to resolve the outstanding Phase II controversies for the same years, it is appropriate for the Judges to commence Phase I proceedings for the subsequent royalty years (2010-11).<sup>1</sup>

## **II. Controversies Exists as to the 2010-2011 Cable Royalty Funds.**

A Phase I controversy exists as to the 2010 and 2011 cable royalty funds among all of the Phase I Parties. Although the Phase I Parties in the past have negotiated settlement agreements among themselves regarding the distribution of cable royalties, no such agreement has been reached with respect to the 2010 or 2011 cable royalty funds. The Phase I Parties believe that a hearing will be necessary to resolve this controversy and intend to participate fully in such hearings.

## **III. Consolidating the 2010 and 2011 Cable Royalty Funds Into a Single Proceeding is Appropriate.**

Good cause exists to consolidate the 2010 and 2011 cable royalty funds into a single proceeding. "Consolidation promotes administrative efficiencies, reduces overall costs, and resolves longstanding controversies in a timely manner." Order, Docket No. 2001-8 CARP CD 98-99 at 5 (February 20, 2002) (consolidating the 1998 and 1999 cable royalty distribution

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<sup>1</sup> On August 29, 2012, certain Phase I Parties representing programming eligible for compensation under Section 119 of the Copyright Act filed a motion to resolve outstanding controversies related to the 1999-2009 satellite royalty funds. *Joint Motion to Initiate Phase II Proceedings for the Distribution of [2004-09] Satellite Royalties*, Docket No. \_\_\_\_\_ (filed August 29, 2012). Certain Phase I Parties also filed a motion seeking final distribution of the 1998 and 1999 cable royalty funds, and the 1999 satellite royalty funds. *Motion for Final Distribution of the 1998 and 1999 Cable Royalty Funds and 1999 Satellite Royalty Funds*, Docket Nos. 2008-1 CRB CD 1998-1999 (Phase II) and 2008-5 CRB SD 1999-2000 (filed August 29, 2012). These motions remain pending before the Judges.

proceedings); *see also Distribution of 1990, 1991 and 1992 Cable Royalty Funds*, 60 Fed. Reg. 14971 (Mar. 21, 1995) (consolidating the 1990, 1991, and 1992 cable royalty distribution proceedings). The Phase I Parties anticipate that the same, or closely similar, issues will be presented for both years. Therefore, judicial economy will be best served through a consolidated proceeding in the instant case.

For the foregoing reasons, the Phase I Parties request that the Judges publish a Notice of Commencement of Proceedings in the Federal Register soliciting petitions to participate in the 2010-11 Cable Phase I Proceeding.

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Dated: January 18, 2013

## CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of January, 2013, a copy of the foregoing Motion to Initiate a Phase I Proceeding for the Distribution of the 2010 and 2011 Cable Royalty Funds was sent by Federal Express to the individuals listed below:

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